

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

JAMES RICE,

Plaintiff,

v.

CIVIL ACTION NO. 3:05-0330

JOANNE BARNHART,
Commissioner of Social Security,

Defendant.

FINDINGS AND RECOMMENDATION

This is an action seeking review of the final decision of the Commissioner of Social Security. Presently pending before the court is defendant's motion to remand.

In his motion to remand, defendant requests that the court remand this case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) so that the administrative law judge may further develop the medical record in this case. Defendant states that counsel for the plaintiff has been contacted and has no objection to a remand in this case.

RECOMMENDATION

In light of the foregoing, it is **RESPECTFULLY RECOMMENDED** that this case be remanded, pursuant to Sentence 4 of 42 U.S.C. §405(g), to the Commissioner for further proceedings consistent with these Findings and Recommendation.

Plaintiff and defendant are hereby notified that a copy of these Findings and Recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with the provisions of Rule 72(b), Fed.R.Civ.P., the parties may, within thirteen days of the date of filing these Findings and Recommendation, serve and file written objections with the Clerk of this Court, identifying the portions of the Findings and Recommendation to which objection is made and the basis for such objection. The judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. §636(b) and the parties are advised that failure to file timely objections will result in a waiver of their right to appeal from a judgment of the district court based on such Findings and Recommendation. Copies of objections shall be served on all parties with copies of the same to Judge Chambers and this Magistrate Judge.

The Clerk is directed to file these Findings and Recommendation and to transmit a copy of the same to all counsel of record.

DATED: October 6, 2006


MAURICE G. TAYLOR, JR.
UNITED STATES MAGISTRATE JUDGE